

A Recommendation to the Law Enforcement Consolidation Taskforce

Introduction

As stated in the first taskforce meeting on August 22 and as defined by resolution adopted by both the City Council and County Commission, the mission of the taskforce was to consider the various models of consolidated law enforcement and make a recommendation as to which, if any, is most appropriate for Memphis and Shelby County. A letter to the taskforce members from Commissioner Carpenter, Co-Chair of the taskforce, outlined a process and key questions that should be addressed by the taskforce and as a part of any recommendation. Those questions were as follows:

1. How would a cost-benefit analysis be carried out? What are the results of other analyses?
2. What would be the impact of consolidation on the rest of the criminal justice system?
3. Would consolidation address the growth patterns of the city and county?
4. What would happen to the Sheriff's office, police department? What would be the impact on suburban law enforcement agencies?
5. How would the decision be made and by whom?
6. How would we ensure that stakeholders have a role in the decision?
7. Would the quality of service provided residents rise or fall?
8. Would consolidation lower the crime rate?
9. Would the Sheriff or Police Director head the new agency. Would there be a role for both?
10. What would be the duties of the sheriff and police director under metro law enforcement scenario?
11. Would consolidation increase or decrease the cost to taxpayers? If increase, is it worth the additional cost? Why?

12. How would seniority, job assignments, salary & benefits, discipline and union representation be resolved?
13. Would promotional opportunities increase or decrease?
14. What legal and contractual issues would arise and how would they be resolved?

The recommendation presented here does not answer all of those questions definitively, but sets forth a process for securing answers to those critical questions and therefore, fulfills the mission of the taskforce. The recommendation is presented with great respect and admiration for the leadership of both Memphis Police Department and the Shelby County Sheriff's Department and without regard to personality. It is submitted in a sincere effort to establish the most effective, streamlined crime-fighting organization available to the citizens of Memphis and Shelby County.

Recommendation

The recommendation is to ultimately merge the law enforcement functions of the Shelby County Sheriff's Office (SCSO) into the Memphis Police Department (MPD) through a series of functional consolidations. Under this proposal, the City of Memphis, unincorporated Shelby County, Lakeland and Arlington will ultimately be served by the new entity. As incorporated entities, Lakeland and Arlington could opt to establish their own police departments or contract for service with the new entity. The remaining municipalities, all with their own police departments, would continue to provide that service, unless they preferred to opt-in to the new department or contract for certain services.

Rationale

The reasons for a merger of the two departments by this specific method are as follows:

1. Need for a single crime-fighting philosophy and mission

As noted throughout the taskforce meetings, different departments have different identities and philosophies about policing, sometimes leading to different levels of service and allocation of resources. This is true for the Memphis Police Department and the Shelby County Sheriff's Office. One example, in simplified terms, MPD relies heavily on Blue Crush, while SCSO uses a saturation approach. Both are data-driven approaches, but are distinctly different. Which model is most effective is debatable.

Lieutenant Tom Roberts of the Las Vegas Nevada Police Department in describing the primary advantage of consolidation said,

"It is one boss, one mission, focused toward one thing...It makes us very efficient in crime fighting." (*Taskforce Transcript, October 17, 2007, p. 10*)

Colonel Robert White of the Louisville Police Department said

"...they [consolidated police force] are policing with the community and it is done in a philosophical way that I think is in the greatest interest of the community. In the past, there were two completely different mindsets as it relates to that," (*See Taskforce Transcript, October 3, 2007, p. 21*)

Colonel White also said that merger affords you the opportunity to:

"...really looking at how we police as a police department and what we needed to do, and both departments, from my perspective, really needed to focus on prevention." (*Taskforce Transcript, October 3, 2007, p. 4*)

Colonel White went on to say that this singular philosophy helped make Louisville one of the safest large cities in America (8th safest in 2005), because every officer, whether

formerly with the county or the city better understood the department's community policing philosophy (*See Taskforce Transcript, October 3, 2007, p.10*)

In other words, Colonel White, as the singular head of a single department was able to identify a strategic problem and direct the entire law enforcement apparatus toward change to correct the problem. He did not have to concern himself with whether or not his approach complemented or diminished any other agency's strategy or mission.

Undersheriff John Gordon of the Jacksonville, Florida Sheriff's Office, at an International Association of Chiefs of Police (IACP) retreat said,

"...after the growing pains, consolidation proved to be a more efficient and harmonious approach to law enforcement" (*See Consolidating Police Services: An IACP Planning Approach, International Association of Chief of Police, May 2003, p. 7*).

In Charlotte, Captain Russ McElwee testified that new Chief Dennis Nowicki, "changed our philosophy on how we policed," by implementing community policing, which resulted in more "street level police officers getting out chasing bad guys" (*See Taskforce Transcript, October 3, 2007, p.33*). Captain McElwee also referenced the inconsistency in how the two departments prior to merger responded to calls for service. Since merger, that process has been amended to compliment the merged department's singular policing philosophy.

2. *Elimination of boundaries and territories*

By law, the Sheriff of Shelby County can enforce state laws and county ordinances anywhere in the county. Practically, however, the Sheriff's department patrols unincorporated Shelby County, Lakeland and Arlington and assists other municipalities in specialized situations.

The MPD, and other municipal police departments, are generally bound to enforcement inside their cities' limits, though in some instances they may extend beyond those boundaries. For law enforcement officers to perform their duties outside their jurisdictions, they must receive a special deputy commission from the Sheriff.

Captain Russ McElwee of the Charlotte Mecklenburg Police Department in discussing one of the primary advantages to consolidation said it this way:

"Criminals don't know boundaries. Police departments do. We now have no boundaries. We communicate better. We are able to serve our community at a much higher level than we were doing prior to that [consolidation]" (*See Taskforce Transcript, October 3, 2007, p. 27*)

Assistant Director J.D. Patterson of the Miami-Dade Police noted that Miami-Dade Police is county-wide and has jurisdiction anywhere in the county. (*See Taskforce Transcript, October 17, 2007, p.8*). Unlike Shelby County's Sheriff's Office, Miami-Dade Police, the county police, is the largest and dominate agency, which makes it more practical that they would have county-wide jurisdiction. Even so, the because of the boundaries that do exist for other law enforcement agencies in Miami-Dade, the Florida legislature recently granted school police officers extended jurisdiction.

3. Elimination of unnecessary duplication and potential for economies of scale

In 2003, the Memphis and Shelby Crime Commission, in its report *Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee*, makes a compelling case for functionally consolidating (1) Basic Training Academies, (2) Communication Technology, (3) Criminal Investigations, (4) COMPSTAT, (5) Traffic, (6) Tactical Response, (7) Canine Unit, (8) Search and Rescue, (9) Special Events, and (10) Internal Affairs (*See Maria Alexander, Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United*

States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee, Memphis and Shelby Crime Commission, 2003, p. 43). These opportunities still exist, as well as others.

One of the primary reasons for elimination of duplication is that capacity may be increased because tasks that were done independently are combined reducing the number of officers needed to do those tasks. Those officers can then be utilized to perform other departmental functions necessary to serve the community (*See Maria Alexander, Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee, Memphis and Shelby Crime Commission, 2003, p. 25*). Colonel White confirmed that his department in Louisville experienced this increased capacity as a result of merger (*See Taskforce Transcript, October 3, 2007, p. 21.*)

Colonel White, Captain McElwee and Lieutenant Roberts all confirmed that their departments were more efficient at service delivery and responding to citizens as a result of the elimination of duplication. Colonel White said:

“Efficient because there is no duplication. Efficient because police officers who traditionally were doing jobs that did not require police officers to do it are now doing police officers’ jobs. Efficient because we use technology as a multiplier...I guess effective and efficient for some point because everything there were two of, there is now one of and people are getting the same type of service and the community is being policed jointly...” (*See Taskforce Transcript, October 3, 2007, p. 21.*)

Assistant Director J.D. Patterson of the Miami-Dade Police Department testified that while Miami-Dade is not consolidated, 29 different departments in Dade County share the same communications system. In addition, most of those departments utilize the same 911 dispatch unit (*See Taskforce Transcript, October 17, 2007, p. 7*).

Lieutenant Tom Roberts of the Las Vegas MPD said:

"...we run the 911 system for the entire valley. That is for EMS, fire, everybody, it comes through our dispatch center. Another thing is the cost savings through eliminating duplication. Better communications toward crime fighting; not only with our agency, but with all others because we take the lead. We deliver – our delivery of police services is definitely an advantage, both urban and rural" (*See Taskforce Transcript, October 17, 2007, p. 11*).

Roberts also said:

"...in my opinion, today, because of consolidation, we are much more efficient at reducing crime when we set our mind to it." (*See Taskforce Transcript, October 17, 2007, p. 15*).

In relation to economies of scale, savings is not guaranteed, but the potential exists. One possible example is the cost of MPD, fully-equipped vehicles versus the cost of SCSO vehicles fully equipped. MPD currently pays \$23,500 for a vehicle and the SCSO pays \$32,800 after equipping their basic \$20,800 patrol car (*See Presentation to the Law Enforcement Consolidation Task Force, Shelby County Finance & Administration Department, October 31, 2007, p.11*). The best example may be in the joint communications system in which MPD upgraded their communication system and SCSO was added to the Motorola platform. The multi-million dollar system would have cost taxpayers even more had an entirely separate system been constructed for the SCSO. Instead, taxpayer saved, SCSO and MPD systems were upgraded and both departments are now interoperable.

4. Lack of substantial operational or strategic cooperation between MPD and SCSO

From all indications, the men and women of the MPD and SCSO operate professionally in relation to one another and in those circumstances where cooperation is required. In the 2003 consolidation report issued by the Memphis Shelby Crime Commission, the

Crime Commission emphasizes the value of the Metro DUI Unit, the Memphis Shelby Metropolitan Gang Unit and the Metro Narcotics Unit, even calling the Gang Unit "vital" (See Maria Alexander, *Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee, Memphis and Shelby Crime Commission, 2003, . p. 40-41*) Today, those units do not exist.

In a presentation from Harvey Kennedy, CFO of SCSO, Mr. Kennedy noted a number of taskforce operations in which SCSO participates. Most of those included participation at some level from MPD. However, virtually all of those efforts were instigated and led by a federal agency such as the FBI, U.S. Attorney's Office, Secret Service or DEA. These taskforces, at least practically, leave each department with little choice other than to participate (See *Shelby County Sheriff's Office, Law Enforcement Consolidation Committee Report, September 5, 2007, p. 14-15*)

On the other hand, joint efforts at attacking non-federal crimes and day-to-day police work appear to be virtually non-existent. The point is not to be critical of either department's leadership, but as referenced earlier, these kinds of differences in philosophy and mission and disputes between departments are avoided to the benefit of citizens under a single law enforcement agency with one leader and one mission.

5. Territory patrolled by the Sheriff is diminishing because of annexation

A report from the Memphis and Shelby County Office of Planning and Development stated,

"As a result of the Memorandum of Agreement one major area of the County located north of the reserve areas of Arlington and Lakeland, east of the reserve area of Millington and northeast of the reserve area of Bartlett was left unreserved to any municipality. Also included in this category are islands located within the channel of the Mississippi River not currently within the city limits of Memphis," (See Urban Growth Area, Amendment to the City of Memphis Urban Growth Plan, December 1999).

Using the same report, the Memphis Shelby Crime Commission notes that:

“...the anticipated unincorporated population of Shelby County will be less than 20,000 residents in the year 2020. Therefore, the remaining residents who are served by the Shelby County Sheriff’s Office would be approximately 77,000 residents, as long as the cities of Arlington and Lakeland continued to require the Shelby County Sheriff’s Office to provide police services,” (See Maria Alexander, *Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee, Memphis and Shelby Crime Commission, 2003, p. 36*)

While, as has been noted, the Sheriff can enforce state laws any where in the county, enforcing these laws within the jurisdictions of municipal police departments unsolicited and uncoordinated is certain to cause concerns. Continuing at the current staffing levels to provide law enforcement for the small area described above is impractical and effectively results in municipal taxpayers, who are also county taxpayers, subsidizing law enforcement services for a small portion of unincorporated Shelby County.

Captain Russ McElwee noted in his testimony that Charlotte had nearly the same issue:

“It was needed, badly. Two reasons for that; one is jurisdiction in the county was shrinking. We have seven small towns, seven small jurisdictions in our town. They were annexing land. The City of Charlotte was growing dramatically at that time. They were annexing land. So it was not going to be long before the county police did not have a jurisdiction to police.” (See *Taskforce Transcript, October 3, 2007, p. 24.*)

“One of the things that was in the agreement was due to the fact that the county is a county-wide tax base rather than --- even citizens in the city of Charlotte pay county taxes – one of the things that we had to come up with and one of the strong arguments for

consolidation was the city people were paying county police salaries without any of the benefits," (See *Taskforce Transcript, October 3, 2007, p. 31.*)

6. *Jail population is rising and needs a long-term strategy and full attention of future sheriffs*

According to SCSO's population projection for 201 Poplar, the population is expected to reach 3011 by 2009. That is 186 inmates over the capacity of 201 Poplar, which is 2,825 (See *Shelby County Sheriff's Office, Law Enforcement Consolidation Committee Report, September 5, 2007, p. 37*). The cost of jail operations, not law enforcement, accounts for 57% or \$79 million of the SCSO's budget (See *Shelby County Sheriff's Office, Law Enforcement Consolidation Committee Report, September 5, 2007, p. 32*). The expected increase in jail population, which is impacted by the higher crime rate and more aggressive law enforcement demanded by the public, and the out-dated, inefficient jail at 201 Poplar, has prompted the Sheriff to request funding from the County Commission for a new or renovated jail with greater capacity.

The rising population, the history of a jail under federal court order, prior to Sheriff Luttrell, numerous lawsuit pay-outs as a result of previous poor management and the prospect of a new multi-million facility necessitate that operation of the jail be the primary responsibility of any future Sheriff. Setting the stage for jail operations being the priority through merger of the law enforcement functions will leave no doubt in the minds of the public and future candidates for Sheriff that intense experience in corrections is a pre-requisite to hold the office.

7. *Increased accountability*

As noted by the Crime Commission, accountability is one of seven areas that are common in discussions of consolidation. Under a consolidated law enforcement agency, with a single, appointed leader, that individual and his management team can be hired based on their expertise. Then they can be held accountable for reduction in crime and

responsiveness to the citizens. An appointed leader, as recommended here, can be removed by the mayor, without an election, for failing to meet performance standards. An elected leader may only be required to meet minimum standards to qualify for the ballot and campaign politics (money, grass roots organization and coalition building) may be more important to who will become the agency's leader than a candidate's law enforcement expertise.

Colonel White stated that he believed the Louisville Metropolitan Police Department to be more transparent as a result of consolidation, making it clear who is responsible for meeting the expectations of the community.

Implementation

Under state law, governments or governmental agencies may enter into interlocal agreements to provide services for their *citizens (Tennessee Code Annotated, Section 12-9-101)*. These interlocal agreements are the basis for the implementation of this plan. A series of interlocal agreements will functionally consolidate services within the departments over a specified period of time ultimately leading to a merger of the two departments.

These interlocal agreements will be negotiated by an entity known as the Memphis and Shelby County Public Safety Commission (MSPSC). **The MSPSC will have no governing authority over either SCSO or MPD**, but will be tasked with crafting interlocal agreements that are acceptable to the departments to be presented to the City Council and County Commission for approval.

As a part of the interlocal agreements, the MSPSC will establish parameters and processes, for not only the implementation of these interlocal agreements, but also for measuring the effectiveness of the agreements. This assessment process will create a data file and on-going evaluation process in advance of the final interlocal agreement(s) leading to the completion of the merger.

This phased-in process coupled with the data file will allow the governments and the public to evaluate key portions of the merger prior to finality. Personnel will have ample opportunity to adjust to the changes. Depending on the results of these early mergers, MSPSC, governmental bodies and departments will have the chance to end the merger and unwind the agreements, slow down the merger to allow for a smoother transition or accelerate the merger as appropriate.

In relation to this evaluation component, the IACP said:

“A process and outcome evaluation of the consolidation should be put in place to parallel consolidation steps. This evaluation will provide critical information on consolidation progress and allow for course corrections when and if needed...The evaluation plan must allow for these criteria to be documented and measured in both objective and subjective ways” (*See Consolidating Police Services: An IACP Planning Approach, International Association of Chief of Police, May 2003, p. 13*)[*Emphasis added*]

The Memphis Shelby Crime Commission concurred:

“Any comprehensive planning process must include preparation for evaluation of the consolidation effort **as it evolves**...Provisions must be in place to make mid-course adjustments as the process unfolds,” (*See Maria Alexander, Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee, Memphis and Shelby Crime Commission, 2003, p. 30-31*). [*Emphasis added*]

Memphis and Shelby County Public Safety Commission

As referenced, the negotiation of the interlocal agreements will be conducted by an entity known as the Memphis and Shelby County Public Safety Commission (MSPSC). MSPSC must be created by a Joint Resolution of the Memphis City Council and Shelby County Commission. To ensure no confusion, **the MSPSC is not the same as the law enforcement authority contemplated in Tennessee Code Annotated that is allowed to govern merged departments.** Instead, the MSPSC is bound by the authority given by the Commission and the Council through the enacting joint resolution. It is recommended that those duties be as follows:

- Develop a plan for the merger of the Shelby County Sheriff's Office and Memphis Police Department;
- Negotiate and draft a series of interlocal agreements acceptable to the SCSO, MPD, County & City legislative bodies and the mayors that implement that merger plan;
- Establish a mechanism(s) for measuring the effectiveness of each interlocal agreement; and,
- Interview and employ a consultant(s) with the approval of the County Commission and City Council to assist with one or all of the above mentioned duties as necessary.

The MSPSC will be staffed with existing resources from City Council and County Commission staff and the City and County attorneys' offices. The budget for the MSPSC will be primarily limited to the cost of consultants to assist with the implementation. The specific costs will not be known until proposals are sought and received. The fees for those consultants will be appropriated equally through the County Commission and City Council.

It is recommended that the MSPSC be comprised of only five representatives. The MPD should have one representative, and the SCSO should have one representative. The County Mayor should have one representative and the City Mayor should have one representative. Neither of the mayors' representatives should be from the SCSO or the

MPD. The final appointment is the chair of MSPSC and should be a joint appointment of the City and County Mayor. The mayoral appointments, including the chair should be confirmed by the City Council and County Commission.

It is worth mentioning that a similar approach is currently underway in Fresno, California. In July, the City Council and Board of Supervisors voted unanimously to create a public safety authority, governed by a board of directors and tasked with overseeing consolidation of some law enforcement services. The three primary goals of the agency are to combine property and evidence storage, prisoner processing and dispatch-center management (*See Cyndee Fontana, "City, County Move to Consolidate," The Fresno Bee, July 14, 2007*).

Interlocal Agreements

As referenced, the legal vehicle effectively leading up to the merger of the two departments is the interlocal agreement. Tennessee Code Annotated Section 12-9-101, the "Interlocal Cooperation Act" provides that two or more public agencies may enter into agreements with one another for joint or cooperative action. The City and County charters give the mayors contracting authority to enter into these agreements. **It is important to note that the interlocal agreements discussed here may set the stage for merger, but cannot be used to completely merge.** An explanation of how merger will occur will be explained in subsequent sections.

Again, the interlocal agreements will detail functional consolidations of duplicate services or processes, possibly beginning with the consolidations recommended by the Memphis Shelby Crime Commission in 2003. The MSPSC will negotiate those agreements between the two departments. When consensus or near consensus has been reached on an agreement, that agreement, will be submitted to the County Commission and City Council for approval. Each agreement requires a majority or seven votes of each and must be signed by the mayors.

As the interlocal agreements outlining functional consolidations are negotiated, one of the issues that must be addressed is chain of command or final authority where staffs from both departments are involved. **Considering that the ultimate goal of this process is to set the stage for the merger of the two departments, the interlocal agreements should delineate that merged functions and units are under the command of MPD as agreeable to MPD.**

Legal Matters

The negotiation and drafting of the interlocal agreements will undoubtedly uncover specific legal issues relating to personnel, services, and duties and jurisdictions of units or divisions. However, the most prominent legal issue impacting the proposal is the statutory duties of the Sheriff and prohibitions in the Tennessee Code and the Shelby County Charter against diminishing those duties. Tennessee Code Annotated Section 12-9-104 (a)(1) provides:

“...No joint or cooperative agreement shall be entered into affecting or relating to the constitutional or statutory powers, privileges or authority of officers of political subdivisions...”

The Shelby County Charter states that the Charter cannot be used to diminish the duties of the elected constitutional officers of Shelby County (*See Shelby County Charter, “Charter Highlights,” p. 3*).

As contemplated here the series of interlocal agreements outlining a series of functional consolidations do not in and of themselves result in merger of the two departments, because of the inability to impact the duties of the Sheriff cited in the above paragraphs. Therefore, once the most substantive functions of the departments are functionally consolidated, merger can be accomplished in one of three ways;

1. Consolidation of Memphis and Shelby County governments into a metropolitan form of government like Nashville or Louisville;
2. Changing of state law relative to the duties of Sheriff generally or offering legislation changing the Sheriff's duties in the event of merging departments specifically; and,
3. Changing the Sheriff's duties in the Shelby County Charter.

The most practical and recommended way is to change the duties of the Sheriff within the Shelby County Charter. This approach is supported by the Tennessee Supreme Court decision Jordan, et al. v. Knox County, Tennessee, et. Al and timely in light of the necessity of the County to amend the charter relative to all constitutional officers as a result of Jordan. **An added advantage to this approach is in the fact that the voters of Memphis and Shelby County would have the final say on what should be viewed as a significant structural change.**

Role of the Sheriff

Obviously, the interlocal agreements outlining functional consolidations will require the support of the Sheriff. While the Mayor of Shelby County is the legal contracting authority, he cannot enter into an illegal contract. As referenced, the Sheriff's duties are statutorily authorized, so the Mayor could not authorize functional consolidations without the support of the Sheriff.

In the circumstance posed in which the duties of the Sheriff would be altered in the charter, it is recommended that the Sheriff remain responsible for the operation of the jail, court security and process service. This model mirrors peer cities like Nashville and Charlotte, as well as many others. Under this model, the Sheriff could remain elected as in Nashville and Charlotte or appointed as in Miami-Dade.

Underscoring the validity of this proposal is the possibility that the County may construct a new 4000-bed facility to house pre-trial inmates or renovate the current jail at 201

Poplar to increase capacity and provide a more efficient facility. With increased size, more aggressive law enforcement, which should increase population, and the history of our jail having been under federal court order, it is essential that the Sheriff's primary duties and dominating skills be associated with the operation of the Shelby County Jail.

Costs of Implementation

It has been noted by the Memphis and Shelby County Crime Commission that consolidation, in and of itself, does not save money and that savings are largely a result of management and policy. Opponents often contend that consolidation costs taxpayers more money, which was in no way supported by the evidence reviewed by the taskforce and the testimony of leaders from Louisville, Charlotte and Las Vegas, who have consolidated police departments. **The fact is that every consolidation is different and the factors impacting costs vary.**

In the case of Louisville, Colonel Robert White testified that the department maintained the same budget for two years without an increase and that since merger in 2003, the slight increases have been a result of negotiation with the police unions (*See Taskforce Transcript, October 3, 2007, p. 8*). A study by the Wisconsin Policy Research Institute indicated the potential for \$6.4 million in savings from the consolidation of Madison and Dane County law enforcement operations (*See James H. Miller, Consolidating Dane County Law Enforcement Agencies: An Examination of Potential Cost Savings, Wisconsin Policy Research Institute Report, May 2002, p. 1*). A study of the 2006 merger of law enforcement in Indianapolis indicated likely savings totaling \$3.9 million (*See Roger B. Parks, Indianapolis/Marion County Law Enforcement Consolidation Phase I Preliminary Report, August 19, 2005, p.4*)

According the Memphis and Shelby County Crime Commission report on consolidation:

“The LA County Sheriff’s Department indicates that in the case of each agency absorbed, the absorbed agency’s budget decreased by approximately 30 percent, even in

those cases where personnel from the absorbed agency have received a pay increase” (See Maria Alexander, *Best Practice Number 11, An Examination of Consolidated Law Enforcement Agencies in the United States and the Proposal for Local Law Enforcement Consolidation in Memphis and Shelby County, Tennessee, Memphis and Shelby Crime Commission, 2003, p. 7*).

Savings may be possible, but it would be misleading to suggest that it is likely. Moreover, any savings or cost increases will not be known until each interlocal agreement and the functional consolidations that comprise it are detailed and analyzed. This approach allows the representatives of the taxpayers, Commissioners and Council members, to weigh the actual costs against the benefits prior to adoption of each interlocal agreement. If savings cannot be achieved, or more importantly if additional costs outweigh the additional benefits, then the Commission or the Council can reject the interlocal agreement.

Finally, as noted by the International Association of Chiefs of Police:

“Determining that consolidation brings substantial immediate costs is not a sufficient reason to discontinue investigation. Nor is discovery that consolidation will bring no long-term financial savings to either jurisdiction sufficient to discontinue investigation, unless financial aspects are the only aspects of interest to the jurisdictions. Consolidation must be viewed in the totality of police services, officer and citizen satisfaction, and the capacity of the new agency to better serve the public and fight crime. Looking at this larger picture, jurisdictions may adopt consolidation even with level or increased costs to bring stronger policing to their constituents.” (See *Consolidating Police Services: An IACP Planning Approach, International Association of Chief of Police, May 2003, p. 15*).

Selection of Departmental Head

When the process has reached the point of complete merger, the person responsible for the newly merged department will not only need to be a highly experienced law enforcement professional, but will also have to have trust and confidence of the community. To that end, the final agreement should specify that the new police director be nominated by the City Mayor and approved by the City Council and County Commission. This ensures accountability and allows for a national search for the most qualified person to lead the agency.

Timing

Because of the complexity of the interlocal agreements, there is no certain deadline for when the merger is to be complete. However, it is recommended that the MSPSC be constituted for a period of five years by the County Commission and City Council. The MSPSC will sunset after five years, but the life of the entity could be extended, if necessary. It is expected that the initial term of five years should be sufficient to complete the interlocal agreements and merge the departments. As evidence that five years is sufficient, Indianapolis completed merger in 6 months, Charlotte within 15 months and Louisville in 2 years following the public referendum that required it.

Governmental and Political Process

The following steps and timing are necessary to implement this proposal:

1. Proposal recommended by the Law Enforcement Consolidation Taskforce (November 2007)
2. Resolutions creating the MSPSC drafted by the County Attorney (December 2007)
3. Resolutions adopted by the Memphis City Council and Shelby County Commission (December 2007)
4. Mayors nominate members of the MSPSC for confirmation by the Council and Commission (February 2008)

5. Council and Commission confirm appointments (March 2008)
6. MSPSC convenes and issues RFP for consolidation consultant (April 2008)
7. Consultant proposals reviewed and consultant selected (May 2008)
8. Plan developed detailing specific functional consolidations to be included in each interlocal agreement and a timeline for adoption and implementation (August 2008)
9. Negotiation and adoption of individual agreement begins (December 2008)

Advantages to this approach

This approach to merger of the two departments has several advantages over the experience of other communities:

1. This process allows for maximum input from stakeholder groups, including citizens and officers, prior to consolidation;
2. The "phased-in" approach allows departments and personnel ample opportunity to prepare for the consolidation;
3. The process calls for performance measures to determine the effectiveness of each functional consolidation;
4. The Council and Commission can halt the consolidation at any point by failing to adopt any of the interlocal agreements;
5. By majority vote of the Council and Commission, consolidation can be "unwound" if the data collected indicates it is too costly or ineffective;
6. Personalities can be taken out of the equation in that completion of the consolidation will not occur until after current terms of the affected officials have expired;
7. The change in the Sheriff's duties will require public education and a charter amendment. The charter amendment will need 9 votes of Commissioners to be placed on the ballot and must be approved by voters in a county general election. If this cannot be done in 2008, 2010 and 2012 will present other opportunities to make the change to allow for merger of the two departments.

Conclusion

The issue of consolidation is an emotional one and this recommendation will no doubt evoke a strong response from supporters and opponents. The focus of this effort has always been to determine the best law enforcement model for the protection of Memphis and Shelby County citizens. While not definitive, the data reviewed by the taskforce, and independent of the taskforce, points to a consolidated model as the best model for Memphis and Shelby County.

Opponents will no doubt point to a lack of empirical data to support the recommendation. However, every consolidation is different and for those who oppose the change, there is not an “apples to apples” comparison. It is for that reason that this approach is slow, methodical and requires measurement and provides a “way out.” This recommendation attempts to be sensitive to these legitimate concerns.

In the end, the Memphis Shelby County Crime Commission said it best in their study:

“Despite the lack of substantive research specific to the consolidation of the two larger law enforcement agencies and the lack of unanimity as to predictable outcomes, research in the area of general consolidation strongly predicts the benefits include a proactive shift to crime fighting, better overall management practices, quicker response time, better training, lower insurance rates, better salaries leading to higher quality personnel, increased planning capability and more accountability” (*Memphis and Shelby Crime Commission, Best Practice Number 11, p. 12*).[Emphasis added]